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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,942	10/22/2003	Joseph A. Swift	D/A0430D	6185

7590 12/28/2004

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Rochester, NY 14644

EXAMINER
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TSOY, ELENA

ART UNIT	PAPER NUMBER
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1762

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/690,942	<b>Applicant(s)</b> SWIFT ET AL.	
	<b>Examiner</b> Elena Tsoy	<b>Art Unit</b> 1762	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 November 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

***Response to Amendment***

1. Amendment filed on November 18, 2004 has been entered. Claims 1-6 are pending in the application.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-5** stand rejected under 35 U.S.C. 103(a) as being unpatentable over Masuda et al (US 5,978,639) in view of Badesha et al (US 5,366,772) and Cooper et al (US 4,365,042) for the reasons of record as set forth in Paragraph No. 7 of the Office Action mailed on September 20, 2004 because the bifunctional coupling agent of the primer layer such as aminosilane coupling agent, e.g. 3-aminopropyl trialkoxysilane is moisture curable and forms chemical bonds with the fluoropolymer such as poly(propylene-tetrafluoroethylene) or a poly(propylene-tetrafluoroethylene-vinylidene fluoride) layer alkoxy functional polyorganosiloxane outer layer.
4. **Claim 6** is rejected under 35 U.S.C. 103(a) as being unpatentable over Masuda et al (US 5,978,639) in view of Badesha et al (US 5,366,772) and Cooper et al (US 4,365,042), further in view of Van Bennekom (US 5,918,098) for the reasons of record as set forth in Paragraph No. 8 of the Office Action mailed on September 20, 2004.

*Response to Arguments*

5. Applicants' arguments filed November 18, 2004 have been fully considered but they are not persuasive.

Applicants argue that there is no disclosure in any of the cited references which would lead one skilled in the art to combine the references in the manner urged by the Examiner to produce applicants' results, except as a result of hindsight in the light of the present disclosure.

The Examiner respectfully disagrees with this argument. First of all, the use of silane coupling agent of Badesha et al which is reactive with functionalities of layers of Masuda et al (one of which is modified with Cooper et al) would provide mechanical and structural integrity of a fuse member, as taught by Badesha et al (See column 9, lines 11-19). Therefore, one of ordinary skill in the art at would have been motivated to use the silane coupling agent of Badesha et al and alkoxy functional polyorganosiloxane of Cooper et al as a silicone rubber of Masuda et al to form chemical bonds with both layers of Masuda et al with the expectation of providing the desired mechanical and structural integrity of a fuse member, as taught by Badesha et al.

Secondly, the use of silane coupling agent to prevent delamination of adjacent layers by chemically **coupling** (bonding) the adjacent layers by chemically reacting with functionalities of each of the adjacent layers is known for decades in the coating art. Also, it is well known to provide the adjacent layers with functionalities if they are not present.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the

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time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elena Tsoy whose telephone number is (571) 272-1429. The examiner can normally be reached on Mo-Thur. 9:00-7:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive Beck can be reached on (571) 272-1415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Elena Tsoy  
Examiner  
Art Unit 1762

ELENA TSOY  
PRIMARY EXAMINER  
ETsoy

December 22, 2004